

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI**

JEREMIAH PARKER, and EP, a Minor,     )  
by and through his Next Friend,         )  
TIFFANEY WHITT; and NP, a Minor,       )  
by and through his Next Friend,         )  
TIFFANEY WHITT; and ZP, a Minor,       )  
by and through his Next Friend,         )  
TIFFANEY WHITT; and IP, a Minor,       )  
by and through his Next Friend,         )  
TIFFANEY WHITT; and MP1, a Minor,      )  
by and through his Next Friend;         )  
TIFFANEY WHITT; and MP2, a Minor,      )  
by and through his Next Friend,         )  
TIFFANEY WHITT,                             )  
   )

Plaintiffs,

vs.

KEARNEY SCHOOL DISTRICT; and         )  
DURHAM SCHOOL SERVICES, L.P.,         )  
   )  
Defendants.                                     )

Case No. 4:22-cv-00454-GAF

**DEFENDANT DURHAM SCHOOL SERVICES, L.P.’S MOTION FOR SUMMARY  
JUDGMENT**

COMES NOW Defendant Durham School Services, L.P. (“Durham”), and for its Motion for Summary Judgment of Plaintiffs’ claims asserted under 42 U.S.C. § 1981, pursuant to Fed. R. Civ. P. 56 and L.R. 56.1, states as follows:

Plaintiffs’ claims asserted under 42 U.S.C. § 1981 must be dismissed pursuant to Fed. R. Civ. P. 56 because Plaintiffs have not and cannot establish that they are either parties to, or rightsholders the Contract they identify in their Amended Complaint. As the Supreme Court held in *Domino’s Pizza, Inc. v. McDonald*, 546 U.S. 470, 476, 126 S. Ct. 1246, 163 L. Ed. 2d 1069 (2006), “Any claim brought under § 1981 must initially identify an impaired ‘contractual relationship,’ under § 1981(b), under which the plaintiff has rights.” *See also FCS Advisors, LLC*

*v. Missouri*, 929 F.3d 618 (8th Cir. 2019) (rejecting a third-party's attempt to enforce a contract under § 1981). Accordingly, there is no genuine dispute that Durham is entitled to judgment as a matter of law.

WHEREFORE, Durham respectfully requests summary judgment be granted in Durham's favor and for such other relief as this Court deems just and proper.

Respectfully submitted,

DYSART TAYLOR COTTER  
McMONIGLE & BRUMITT, P.C.

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